

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO.: 0:22-CV-61553-DIMITROULEAS/HUNT

CRUZ VALDIVIESO FIGUERA,

Plaintiff,

vs.

ALL VIP CARE INC. AND
LIZ VELAZQUEZ MCKINNON,

Defendants.

**ORDER DENYING MOTION TO FILE UNTIMELY SUMMARY JUDGMENT
MOTION**

THIS CAUSE is before the Court upon Plaintiff's Second Amended *Nunc Pro Tunc* Motion for Extension of Time to File Motion for Partial Summary Judgment and Statement of Material Facts (the "Motion"), filed July 20, 2023. *See* [DE 70]. The Court has considered the Motion, notes that it is opposed, and is otherwise fully advised in the premises.

On October 26, 2022, the parties filed a Joint Scheduling Report and Joint Proposed Scheduling Order, requesting an October 23, 2023 trial date and a July 18, 2023 deadline for filing dispositive pre-trial motions. *See* [DE's 19, 19-1]. The same day, the Court entered a Scheduling Order, setting the trial for October 23, 2023, and the deadline for filing motions for summary judgment for July 18, 2023. *See* [DE 20].

On July 18, 2023, at approximately 10:00 PM, Plaintiff filed a Motion for Partial Summary Judgment [DE 61] and Statement of Material Facts in Support of Motion for Summary Judgment [DE 62]. The Statement of Material Facts [DE 62] did not comply with the criteria set forth in the Local Rules and was otherwise fundamentally flawed. *See* [DE 63]. On July 19,

2023, the Court entered an Order Striking Plaintiff's Motion for Partial Summary Judgment. *See id.* Through the instant Motion, Plaintiff states that she has corrected the issues identified in the Court's July 19, 2023 Order and requests leave to refile her corrected Motion for Partial Summary Judgment and accompanying statement of facts. *See [DE 70].*¹

The Court does not find good cause to allow Plaintiff to refile her Motion for Partial Summary Judgment. As the Court already stated in its July 19, 2023 Order Striking Plaintiff's Motion for Partial Summary Judgment [DE 63], when a party waits until the deadline to file a motion, it takes the risk that if the motion is stricken or denied on procedural grounds the party will not be given an opportunity to remedy the defect after the filing deadline has passed. Nothing is preventing Plaintiff from raising her summary judgment arguments in the context of a Rule 50 motion at trial, if appropriate.

Accordingly, it is hereby **ORDERED AND ADJUDGED** that Plaintiff's Motion [DE 70] is hereby **DENIED**.

DONE AND ORDERED in Chambers in Fort Lauderdale, Broward County, Florida on this 21st day of July, 2023.



WILLIAM P. DIMITROULEAS
United States District Judge

Copies furnished to:
Counsel of Record

¹ The Court notes that Plaintiff failed to attach a copy of the corrected Motion for Partial Summary Judgment and Statement of Material Facts to the instant Motion.